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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 RODNEY L. GARROTT,

11 Plaintiff,

12 v.

13 EARL WRIGHT, et al.,

14 Defendants.

Case No. C10-5417BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

15 This matter comes before the Court on the Report and Recommendation (“R&R”) of
16 the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 17), Plaintiff
17 Rodney Garrott’s (“Garrott”) motion for an extension of time (Dkt. 19), and Garrott’s
18 motion for reconsideration (Dkt. 22). The Court has considered the R&R, Garrott’s
19 motions, and the remainder of the file and hereby adopts the R&R and dismisses this action.

20 **I. PROCEDURAL HISTORY**

21 On July 9, 2010, Garrott filed a Civil Rights Complaint against Defendants Earl
22 Wright, Roy Gonzalez, Ron Van Boening, Randy Johnson, and Shane Maitland
23 (“Defendants”). Dkt. 6.

24 On March 24, 2011, Defendants filed a Motion For Summary Judgment. Dkt. 15. The
25 motion was noted for April 22, 2011, which required Garrott to mail his response on April
26 15, 2011, and file it no later than April 18, 2011.

1 On April 12, 2011, Garrott was sent to the infirmary and then placed in the Special
2 Management Unit (SMU) due to receiving an infraction for fighting and resisting arrest.
3 Dkt. 19. On May 6, 2011 Garrott mailed his motion for an extension of time, which was
4 received by the Court on May 11, 2011. *See id.*

5 On May 12, 2011, Judge Creatura issued the R&R finding no constitutional violation
6 and recommending that the action be dismissed with prejudice. Dkt. 17.

7 On May 19, 2011, prior to this Court's ruling on his motion for extension of time,
8 Garrott filed a document entitled "Brief in Opposition to Defendants' Motion for Summary
9 Judgment" (Dkts. 20, 20-1, & 20-2), and a Motion for Reconsideration (Dkt. 22).

10 On May 20, 2011, Defendants responded to Garrott's motion for an extension of
11 time. Dkt. 23. On May 24, 2011, Defendants responded to Garrott's brief in opposition to
12 the summary judgment motion and included a motion to strike. Dkt. 23.

13 II. DISCUSSION

14 In the interest of judicial economy, the Court will grant Garrott's motion for
15 extension of time and consider all the documents on file.

16 First, Garrott concedes that his claims regarding alleged missing magazines should be
17 dismissed for failure to exhaust administrative remedies. *See* Dkt. 20-1, p. 2-3. Garrott also
18 concedes that his claims against Defendants Wright, Gonzalez, Van Boening and Johnson
19 should be dismissed for failing to allege personal participation. *Id.* at 3.

20 With regard to the remaining claim against Defendant Maitland, Garrott has failed to
21 show that (1) the state does not provide a meaningful post-deprivation remedy (*Hudson v.*
22 *Palmer*, 468 U.S. 517, 533) or (2) personal participation by Defendant Maitland in causing
23 the deprivation (*Arnold v. International Business Machines Corp.*, 637 F.2d 1350, 1355 (9th
24 Cir. 1981)). Therefore, Garrott's claim is without merit.


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III. ORDER

The Court having considered the R&R, Garrott's motion for reconsideration, and the remaining record, does hereby find and order as follows:

- (1) Garrott's motion for relief (Dkt. 19) is **GRANTED**;
- (2) The R&R (Dkt. 17) is **ADOPTED**;
- (3) Garrott's motion for reconsideration (Dkt. 19) is **DENIED**; and
- (4) This action is **DISMISSED with prejudice**.

DATED this 22nd day of June, 2011.


BENJAMIN H. SETTLE
United States District Judge